

STATE OF NEW YORK
SUPREME COURT : COUNTY OF QUEENS

Index No.:

M&T BANK
475 Crosspoint Parkway
Getzville, New York 14068,

Plaintiff,

vs.

CONSUMER CREDIT
TRANSACTION
(NON-CREDIT CARD)

BLANCA LUCIANO
A/K/A BLANCA I. LUCIANO
95 04 97th Street, Apt. 2nd Floor
Ozone Park, New York 11416,

9309 103rd Avenue, Apt. 2
Ozone Park, New York 11417,

Defendant.

SUMMONS

TO DEFENDANT:

YOU ARE SUMMONED to appear in this action by serving your answer to the complaint on the plaintiff's attorney within the time limits stated below.

Queens County is designated as the county where this action will be tried, because one or more of the parties to this action resides in that county.

TIME LIMITS TO ANSWER:

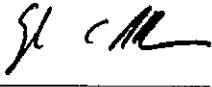
- (1) If this summons is served by delivery to you personally within New York State, you must answer the complaint within TWENTY (20) days after such delivery.
- (2) If this summons is not served by delivery to you personally within New York State, and not served pursuant to CPLR 312-a, you must answer the complaint within THIRTY (30) days after service is complete.

- (3) If this summons is served pursuant to CPLR 312-a, see accompanying STATEMENT OF SERVICE BY MAIL for time limits to answer.

IF YOU FAIL TO ANSWER THE COMPLAINT within the time stated, judgment will be entered against you for the relief demanded in the complaint.

Dated: March 22, 2022
Buffalo, New York

RUPP BAASE PFALZGRAF CUNNINGHAM LLC
Attorneys for Plaintiff
M&T Bank

By: 

Kyle C. DiDone, Esq.
1600 Liberty Building
Buffalo, New York 14202
(716) 854-3400

STATE OF NEW YORK
SUPREME COURT : COUNTY OF QUEENS

Index No.:

M&T BANK,

Plaintiff,

vs.

BLANCA LUCIANO
A/K/A BLANCA I. LUCIANO,

Defendant.

VERIFIED COMPLAINT

Plaintiff, M&T Bank, by its attorneys, Rupp Baase Pfalzgraf Cunningham LLC, as and for its verified complaint against the defendant alleges as follows:

1. At all times hereinafter mentioned, plaintiff, M&T Bank (“plaintiff”), was and is a New York banking corporation with a principal place of business located at 475 Crosspoint Parkway, Getzville, New York.

2. Upon information and belief, at all times hereinafter mentioned, defendant Blanca Luciano (“defendant”) was and is an individual residing at 95 04 97th Street, Apt. 2nd Floor, Ozone Park, New York or 9309 103rd Avenue, Apt. 2, Ozone Park, New York.

FACTUAL BACKGROUND

3. On or about August 22, 2015, defendant executed a certain Retail Instalment Contract ("Contract"), pursuant to which plaintiff agreed to lend the defendant \$42,163.02, and defendant agreed to repay that amount in accordance with the terms of the Contract. A copy of the Contract is attached as Exhibit A.

FIRST CAUSE OF ACTION
(Breach of Contract)

4. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 through 3 of this complaint.

5. Defendant has breached the terms of the Contract by, among other things, failing and/or refusing to make payments in accordance with its terms.

6. Defendant failed to pay her February 28, 2018 monthly installment payment and all subsequent payments.

7. There is now due and owing the principal amount of \$15,201.78 from defendant to plaintiff with respect to the Contract.

8. By reason of defendant's breach of the Contract, plaintiff has been damaged, as of March 22, 2022, in the total amount of \$16,922.12, which consists of \$15,201.78

principal, \$1,082.42 interest, \$637.92 late fees, and \$0.00 miscellaneous fees, along with all costs, disbursements, and attorneys' fees.

SECOND CAUSE OF ACTION
(Unjust Enrichment)

9. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 through 8 of this complaint.

10. By reason of the acts of the defendant, as aforesaid, and without any wrongdoing on the part of the plaintiff, defendant has been unjustly enriched to plaintiff's detriment.

11. By reason of the foregoing, plaintiff has been damaged in the principal amount of \$15,201.78.

WHEREFORE, plaintiff M&T Bank demands judgment as follows:

- (1) On its first cause of action, as against defendant, Blanca Luciano a/k/a Blanca I. Luciano in the total amount of \$16,922.12, plus accrued interest, late charges, costs, disbursements and attorneys' fees;
- (2) On its second cause of action, as against defendant, Blanca Luciano a/k/a Blanca I. Luciano in the principal amount of \$15,201.78, together with interest thereon;
- (3) The costs and disbursements of this action, together with any other or further relief as the Court may deem just and proper.

Dated: March 22, 2022
Buffalo, New York

RUPP BAASE PFALZGRAF CUNNINGHAM LLC
Attorneys for Plaintiff
M&T Bank

By: 

Kyle C. DiDone, Esq.
1600 Liberty Building
Buffalo, New York 14202
(716) 854-3400

VERIFICATION

STATE OF NEW YORK)
: ss.:
COUNTY OF ERIE)

Jason Davis, being duly sworn, deposes and says that he/she is a/an Vice President of M&T Bank, the corporation named in the within entitled action; that he/she has read the foregoing Summons and Verified Complaint and knows the contents thereof; and that the same is true to his/her own knowledge, except as to those matters therein stated to be alleged upon information and belief, and as to those matters he/she believes them to be true.

Deponent further says that the reason this verification is made by deponent and not by M&T Bank is because M&T Bank is a corporation and the grounds of deponent's belief as to all matters in the Summons and Verified Complaint not stated upon his/her own knowledge, are investigations which deponent has caused to be made concerning the subject matter of this Summons and Verified Complaint and information acquired by deponent in the course of his/her duties as an officer of said corporation and from the books and papers of said corporation.

On this 25th day of March, 2023 before me personally came Jason Davis who, being duly sworn, deposed and said that he/she is a/an Vice President of M&T Bank and that he/she has read the foregoing Verified Complaint, that he/she knows the contents thereof and that he/she has affixed his/her name with all requisite authority on behalf of M&T Bank.

Notary Public

ANGELA MARIE BERNINGER
NOTARY PUBLIC STATE OF NEW YORK
ERIE
LIC. #01BE6376033
COMM. EXP. 06/04/2022

EXHIBIT A

QUEENS COUNTY, NEW YORK, CLERK'S OFFICE, Case 1:23-cv-02233-EK-RML Document 1-2 Filed 03/22/23 Page 9 of 11 PageID #: 40

Case 1:2
NYSCEF DOC NO 2

RECEIVED NYSCFF: 03/30/2022

TRUE COPY - UGC NON-AUTHORITATIVE COPY

Value, which costs \$	N/A	your age?	age to be insured
Value of Buyer to be insured for Single Credit Unemployment Insurance	N/A	1. 21	N/A
or:	Term:	2. X	N/A
	Insurer:	Signatures of both Buyers to be insured for Joint Credit Involuntary Unemployment Insurance	Term: N/A

CANCELLATION COVERAGE IS NOT REQUIRED: Debt Cancellation Coverage provides for the cancellation of your liability for amounts you owe under this Contract in excess of the value of the Vehicle in the event of a total loss of the Vehicle. This is sometimes called "GAP" coverage. GAP coverage is not required to obtain credit and will not be provided unless it is desired and you sign a separate GAP Notice requesting GAP coverage, which means you want GAP coverage and agree to pay the additional cost disclosed in the "Itemization of Amount Due".

NOTE: We intend to assign this Contract and Security Agreement to the Assignee named in this provision. If the Assignee assigns the Contract to a subsequent assignee, the term also applies to such subsequent assignee. After the assignment, all rights and benefits of the Seller in this Contract and in the Security Agreement shall belong to and be enforceable by the Assignee. The Assignee's name and address is:

M&T BANK

Installment Loan Operations, One Fountain Plaza, P.O. Box 767
Buffalo, New York 14240

CO-SIGNER: Any person signing the Co-Signer's Agreement below promises separately and together with all Co-Signer(s) and Buyer(s), to pay all sums due and to perform all agreements in this Contract. Co-Signer will not be an owner of the Vehicle.

OWNER: Any Person signing the Co-Owner's Security Agreement below gives us a security interest in the Vehicle and agrees separately and together with all Co-Owner(s) and Buyer(s), to pay all agreements in the Security Agreement and all other parts of this Contract except the "Promise to Pay" section.

The terms shown in the boxes above are part of this Contract.

SE TO PAY: You agree (or pay us) the Total Sale Price for the Vehicle in U.S. funds by the Total Down Payment, and paying us the Amount Financed plus the credit charge (called "Interest" in this Contract) at the Annual Percentage Rate shown. You promise to make payments in accordance with the Payment Schedule. You must make payments on or before the same day of each month as the first payment. You agree to pay all other amounts which may become due under the terms of this Contract. You agree to make payments at the place or to send payments to the place which the Assignee most recently specifies in the written notice to you.

SECURITY AGREEMENT: To secure the payment of all sums due and the performance of all required obligations under this Contract, you give us a security interest in the Vehicle, in all parts (called "Accessories"), attached to the Vehicle at any later time, and in any proceeds of the Vehicle, including insurance proceeds.

ADDITIONAL TERMS AND CONDITIONS: THIS CONTRACT CONTINUES ON THE REVERSE SIDE. YOU ARE OBLIGATED TO ALL THE TERMS OF THE CONTRACT WHICH APPEAR ON THE FRONT AND REVERSE SIDES.

Annual Percentage Rate may be negotiable with the Seller. The Seller may assign this contract and retain its right to be a part of the Finance Charge.

DE TO THE BUYER: 1. Do not sign this Contract before you read it or if it contains any blank space. 2. You are entitled to a completely filled-in copy of this Contract. 3. Under the law, you have the right to pay off in advance the full amount due. If you do, you may, depending on the nature of the credit service charge, either (a) prepay without penalty, or (b) under some instances obtain a rebate of the credit service charge. 4. According to law you have the privilege of purchasing the insurance for your motor vehicle provided for in this Contract from an agent or broker of your own selection.

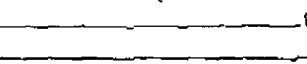
Below, we agree to sell the Vehicle to you under the terms of this Contract.

STAR HYUNDAI, LLC

08/22/2015
(SEAL) Date

You hereby acknowledge receipt of a copy of this Contract.

RETAIL INSTALLMENT CONTRACT

BUYER X  08/22/2015
(SEAL) Date
BUYER X  (SEAL) Date

CO-SIGNER NOTICE

I agree to pay the debt identified above, although you may not personally receive any property, services or money. You may be sued for the debt, although the person who receives the property, services or money is capable of paying the debt. You should know that the Total of the amounts listed above does not include Finance Charges resulting from delinquency, late charges, repossession or foreclosure costs, court costs, attorney's fees, or other charges that are stated in the Contract. You will also have to pay some or all of these costs and charges as required by the terms of the Contract. This notice is not the writing that obligates you to pay the debt. You have read the Retail Installment Contract, which states the exact terms of your obligation, and the Co-Signer(s) Notice.

I have been given a completed copy of this Notice and each writing that obligates you or the Buyer on this Contract.

Name of Co-Signer	Date:	Signature of Co-Signer	Date
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YOU SHOULD READ THE NOTICE TO CO-SIGNER ABOVE, BEFORE SIGNING THE CO-SIGNER'S AGREEMENT.
'S AGREEMENT: You, the person (or persons) signing below as "Co-Signer", promise to pay to us all sums due on this Contract and to perform all agreements in this Contract, to be legally bound by all the terms of this Contract, separately and together, with the Buyer. You are making this promise to induce us to make this Contract with the Buyer, and we will use the proceeds only for the Buyer's benefit. You agree to pay even though we may not have made any prior demand for payment on the Buyer or exercised our right. You also acknowledge receiving a completed copy of this Contract.

Signature	Address	Date
(SEAL)		
Signature	Address	Date
(SEAL)		

SECURITY AGREEMENT: You, the person signing below as "Co-Owner", together with the Buyer(s) being all of the Owners of the Vehicle, give us a security interest in the Vehicle above. You agree to be bound by the terms of the Security Agreement and all other parts of this Contract except the "Promise To Pay" section. You are giving us the right to finance us to make this Contract with the Buyer, and to secure the payment by the Buyer of all sums due on this Contract. You will not be responsible for any deficiency due after repossession and sale of the Vehicle.

nature	Address	Date
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ASSIGNMENT
I agree to be bound by all provisions of this Contract. Also, for value received and intending to be legally bound hereby, the Seller (a) assigns this Contract to the Assignee subject to all terms and conditions of the dealer agreement currently in effect between Seller and Assignee and (b) makes, with respect to this Contract, all warranties and representations in such dealer agreement. Whether or not Seller signs this Assignment, if Assignee takes assignment of the Contract from the Seller, then such assignment shall be "without recourse", pursuant to the dealer agreement, and made as of the date of the Contract. For purposes of this Assignment, Seller hereby appoints Assignee as its agent to supply any missing signatures of Seller hereunder.

Name of Seller	Signature and Title of Person signing for Seller
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No Cooling Off Period	
does not provide for a "cooling off" or other cancellation period for this Contract. Therefore, you cannot later cancel this Contract if you change your mind or wish you had acquired a different item. After you sign above, you may only cancel this Contract for reasons.	

1523510-11 4/2/2004
Financial Services - BINCO

NOTICE: SEE REVERSE SIDE FOR IMPORTANT INFORMATION.
ORIGINAL - VENDOR - BUYER'S COPY - CO-OWNER - CO-SIGNER'S COPY - FIN - SELLER'S COPY - G-Shared

Interest Rate _____ %

TRUE COPY- UCC NON-AUTHORITATIVE COPY

By signing, you select Single Credit
Involuntary Unemployment Insurance, which costs \$ _____
 Signature of Buyer to be Insured for Single Credit Involuntary Unemployment Insurance
Insurer: _____ Term: _____

What is your age? _____ yrs.

By signing, you both select Joint Credit
Involuntary Unemployment Insurance, which costs \$ _____
 1. X
 2. X
Signatures of both Buyers to be insured for Joint Credit Involuntary Unemployment Insurance
Insurer: _____ Term: _____

What is your age? _____ yrs.

Percent-
age? _____
Insured
N/A
N/A%

DEBT CANCELLATION COVERAGE IS NOT REQUIRED: Debt Cancellation Coverage provides for the cancellation of your liability for amounts you owe under this Contract in excess of the value of the Vehicle in the event of a total loss of the Vehicle. This is sometimes called "GAP" coverage. GAP coverage is not required to obtain credit and will not be provided unless it is offered and you sign a separate GAP Notice requesting GAP coverage, which means you want GAP coverage and agree to pay the additional cost disclosed in the "Itemization of Amount Financed".

ASSIGNEE: We intend to assign this Contract and Security Agreement to the Assignee named in this provision. If the Assignee assigns the Contract to a subsequent assignee, the term also refers to such subsequent assignee. After the assignment, all rights and benefits of the Seller in this Contract and in the Security Agreement shall belong to and be enforceable by the Assignee. The Assignee's name and address is: **M&T BANK**

**Installment Loan Operations, One Fountain Plaza, P.O. Box 767
Buffalo, New York 14240**

CO-SIGNER: Any person signing the Co-Signer's Agreement below promises separately and together with all Co-Signer(s) and Buyer(s), to pay all sums due and to perform all agreements in this Contract. Co-Signer will not be an Owner of the Vehicle.

CO-OWNER: Any person signing the Co-Owner's Security Agreement below gives us a security interest in the Vehicle and agrees separately and together with all Co-Owner(s) and Buyer(s), to perform all agreements in the Security Agreement and all other parts of this Contract except the "Promise to Pay" section.

TERMS: The terms shown in the boxes above are part of this Contract.

PROMISE TO PAY: You agree to pay us the Total Sale Price for the Vehicle in U.S. funds by making the Total Down Payment, and paying us the Amount Financed plus the credit service charge (called "interest" in this Contract) at the Annual Percentage Rate shown above. You promise to make payments in accordance with the Payment Schedule. You promise to make payments on or before the same day of each month as the first payment due date. You agree to pay all other amounts which may become due under the terms of this Contract. You agree to make payments at the place or to send payments to the address which the Assignee most recently specifies in the written notice to you.

SECURITY AGREEMENT: To secure the payment of all sums due and the performance of all required obligations under this Contract, you give us a security interest in the Vehicle, in all parts (called "Accessions") attached to the Vehicle at any later time, and in any proceeds of the Vehicle, including insurance proceeds.

ADDITIONAL TERMS AND CONDITIONS: THIS CONTRACT CONTINUES ON THE REVERSE SIDE. YOU ARE OBLIGATED TO ALL THE TERMS OF THE CONTRACT WHICH APPEAR ON THE FRONT AND REVERSE SIDES.

The Annual Percentage Rate may be negotiable with the Seller. The Seller may assign this contract and retain its right to receive a part of the Finance Charge.

NOTICE TO THE BUYER: 1. Do not sign this Contract before you read it or if it contains any blank space. 2. You are entitled to a completely filled-in copy of this Contract. 3. Under the law, you have the right to pay off in advance the full amount due. If you do so, you may, depending on the nature of the credit service charge, either (a) prepay without penalty, or (b) under some circumstances obtain a rebate of the credit service charge. 4. According to law you have the privilege of purchasing the insurance on the motor vehicle provided for in this Contract from an agent or broker of your own selection.

By signing below, we agree to sell the Vehicle to you under the terms of this Contract.

SELLER X **STAR HYUNDAI, LLC**
BY: 

08/22/2015
(SEAL) Date

You hereby acknowledge receipt of a copy of this Contract.

RETAIL INSTALLMENT CONTRACT

BUYER X 
(SEAL) Date
BUYER X (SEAL) Date

08/22/2015

Date

Date

CO-SIGNER NOTICE

You agree to pay the debt identified above, although you may not personally receive any property, services or money. You may be sued for payment, although the person who receives the property, services or money is capable of paying the debt. You should know that the Total of Payments listed above does not include Finance Charges resulting from delinquency, late charges, repossession or foreclosure costs, court costs or attorney's fees, or other charges that are stated in the Contract. You will also have to pay some or all of these costs and charges as required by the terms of the Contract. This notice is not the writing that obligates you to pay the debt. You have read the Retail Instalment Contract, which contains the exact terms of your obligation, and the Co-Signer(s) Notice.

You have been given a completed copy of this Notice and each writing that obligates you or the Buyer on this Contract.

X	Signature of Co-Signer	Date	X	Signature of Co-Signer	Date
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CO-SIGNER: YOU SHOULD READ THE NOTICE TO CO-SIGNER ABOVE, BEFORE SIGNING THE CO-SIGNER'S AGREEMENT.
CO-SIGNER'S AGREEMENT: You, the person (or persons) signing below as "Co-Signer", promise to pay to us all sums due on this Contract and to perform all agreements in this Contract. You intend to be legally bound by all the terms of this Contract, separately and together, with the Buyer. You are making this promise to induce us to make this Contract with the Buyer, even though we will use the proceeds only for the Buyer's benefit. You agree to pay even though we may not have made any prior demand for payment on the Buyer or exercised our security interest. You also acknowledge receiving a completed copy of this Contract.

X	Co-Signer's Signature	(SEAL)	Address	Date
X	Co-Signer's Signature	(SEAL)	Address	Date

CO-OWNER'S SECURITY AGREEMENT: You, the person signing below as "Co-Owner", together with the Buyer(s) being all of the Owners of the Vehicle, give us a security interest in the Vehicle identified above. You agree to be bound by the terms of the Security Agreement and all other parts of this Contract except the "Promise to Pay" section. You are giving us a security interest to induce us to make this Contract with the Buyer, and to secure the payment by the Buyer of all sums due on this Contract. You will not be responsible for any deficiency which might be due after repossession and sale of the Vehicle.

X	Co-Owner's Signature	Address	Date
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ASSIGNMENT
The Seller agrees to be bound by all provisions of this Contract. Also, for value received and intending to be legally bound hereby, the Seller (a) assigns this Contract to the Assignee pursuant to and subject to all terms and conditions of the dealer agreement currently in effect between Seller and Assignee and (b) makes, with respect to this Contract, all warranties and representations set forth in such dealer agreement. Whether or not Seller signs this Assignment, if Assignee takes assignment of the Contract from the Seller, then such assignment shall deemed to be "without recourse", pursuant to the dealer agreement, and made as of the date of the Contract. For purposes of this Assignment, Seller hereby appoints Assignee as the assignee to supply any missing information of Seller's signature.

08/22/2015	STAR HYUNDAI, LLC	Date	Name of Seller	Signature and Title of Person signing for Seller
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No Cooling Off Period

State law does not provide for a "cooling off" or other cancellation period for this Contract. Therefore, you cannot later cancel this Contract simply because you change your mind or wish you had acquired a different item. After you sign above, you may only cancel this Contract for legally valid reasons.

NOTICE: SEE REVERSE SIDE FOR IMPORTANT INFORMATION.
DEALER - VEHICLE - PURCHASE COPY - LENDER - CO-SIGNER'S COPY - DUPLICATED COPY - EXCLUDED

TRUE COPY- UCC NON-AUTHORITATIVE COPY